

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
RAS Citron, LLC 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys For Secured Creditor Ocwen Loan Servicing, LLC as servicer for U.S. Bank National Association, successor in interest to Bank of America, National Association, successor by merger to LaSalle National Association as trustee for GSAMP Trust 2007-NC1 Mortgage Pass-Through Certificates, Series 2007-NC1 Aleisha C. Jennings, Esq. AJ-049302015	CASE NO.: 18-33285-CMG CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Larry J. Kushner Debtor, Jacqueline Kushner, Joint Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

Ocwen Loan Servicing, LLC as servicer for U.S. Bank National Association, successor in interest to Bank of America, National Association, successor by merger to LaSalle National Association as trustee for GSAMP Trust 2007-NC1 Mortgage Pass-Through Certificates, Series 2007-NC1 ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 30), and states as follows:

1. Debtor, Larry J. Kushner ("Debtor"), and Joint Debtor, Jacqueline Kushner, ("Joint Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on November 27, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 10845 Lake Wynds Court, Boynton Beach, FL 33437, by virtue of a Mortgage recorded on

September 14, 2006 in Book 20849, at Page 1805 of the Public Records of Palm Beach County, FL. Said Mortgage secures a Note in the amount of \$500,000.00.

3. The Debtor filed a Chapter 13 Plan on January 15, 2019.
4. Secured Creditor filed a Proof of Claim in this case on December 21, 2018, Claim No. 12-1.
5. The Plan lists the property under Part 4, Section D under modification; however, the Plan fails to provide for details of Secured Creditor's claim. The subject property and claim are, however, listed in Debtor's schedules. Secured Creditor objects to the Plan and seeks clarification as to Debtor's intentions in regard to the subject property and claim.
6. The Plan fails to propose a valuation of the subject property. Until a final determination on valuation occurs, it would be premature to consider confirming Debtor's Plan. Furthermore, the Plan fails to propose an interest rate, which is inadequate to assure that property distributed to Secured Creditor under the plan will have a value, as of the effective date of the plan that is not less than the allowed amount of such claim. In *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951(2004), the U.S. Supreme Court addressed the appropriate cram down interest rate under 11 U.S.C. § 1325(a)(5)(B)(ii). *Till* adopts the "formula approach," which looks to the national prime rate, as reported daily in the press, and adds an appropriate "risk adjustment." Although *Till* does not specify what the risk adjustment should be, it states that courts generally approve adjustments of 1-3%. Accordingly, Secured Creditor maintains that, lacking evidence to the contrary, a risk adjustment of 2% is reasonable. The prime rate, as published in the Wall Street Journal, is currently 5.50%. Accordingly, Secured Creditor maintains the Court should not approve a cram down interest rate less than 7.50%.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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Attorney for Secured Creditor
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Fairfield, NJ 07004
Telephone Number 973-575-0707

By: /s/Aleisha C. Jennings
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CERTIFICATION OF SERVICE

1. I, Aleisha C. Jennings, represent Ocwen Loan Servicing, LLC as servicer for U.S. Bank National Association, successor in interest to Bank of America, National Association, successor by merger to LaSalle National Association as trustee for GSAMP Trust 2007-NC1 Mortgage Pass-Through Certificates, Series 2007-NC1 in this matter.
2. On 3/4/2019, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: Objection to Confirmation of Debtor's Chapter 13 Plan
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

3/4/2019

RAS Citron, LLC
Attorney for Secured Creditor
130 Clinton Road, Suite 202
Fairfield, NJ 07004
Telephone Number 973-575-0707

By: /s/Aleisha C. Jennings
Aleisha C. Jennings, Esquire
NJ Bar Number AJ-049302015
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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Larry J. Kushner 731 Greens Avenue Long Branch, NJ 07740	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
Jacqueline Kushner 731 Greens Avenue Long Branch, NJ 07740	Joint Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)